

LABOUR DEPARTMENT

The 5th September, 1972

No. 9832-Lab-72/36198.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Printers House (P) Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 201 of 1971

BETWEEN

SHRI HAR PAL SINGH AND THE MANAGEMENT OF M/S PRINTERS HOUSE (P) LTD., FARIDABAD

Present—

Nemo, for the applicant.

Shri S.L. Gupta, for the management.

AWARD

The management of M/s Printers House (P) Ltd., Faridabad terminated the services of its workman Shri Har Pal Singh w.e.f. 8th May, 1971. He raised a dispute which was referred for adjudication to this court by the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 vide order No. ID/FD/89-B-71/32299-303, dated 4th November, 1971, the term of reference being as given :—

“Whether the termination of services of Shri Har Pal Singh was justified and in order ? If not, to what relief is he entitled ?”

The management has pleaded that the dispute has been settled and Shri Har Pal Singh has received the payment of his entire dues foregoing his claim for reinstatement or re-employment. The workman was directed to appear today and admit or deny the alleged settlement. He has however, chosen not to appear and refute the above plea of the management.

Statement of Shri S.L. Gupta authorised representative of the management has been recorded. According to him Shri Har Pal Singh received payment of his entire dues amounting to Rs. 56.65 in full and final settlement of his claim vide his application dated 19th November, 1971 Exhibit M.1 attested by Shri Balwant Rai, Labour Inspector, II Circle, Faridabad, in whose presence the payment was made.

In view of the above, I am satisfied that a settlement has been arrived at between the parties as stated above and there is now no dispute left for adjudication. A no-dispute award is accordingly made but without any order as to costs.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1781, dated the 29th August, 1972.

Forwarded (four copies to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9823-4Lab-72/36223.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Usha Spinning and Weaving Mills Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 6 of 1972 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI HOTI LAL WORKMEN AND THE MANAGEMENT OF M/S USHA SPINNING AND
WEAVING MILL LTD., FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Dr. Anand Parkash, for the management.

AWARD

This is a complaint under section 33-A of the Industrial Disputes Act, 1947. As per the statement of his authorised representative, Shri Hoti Lal concerned workman has settled the dispute as per the Memorandum of settlement Ex. M-1 and he has been paid his entire dues with the result that he has now no, claim left against the management.

In view of the above the complaint shall stand dismissed as settled. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 911, dated the 28th August, 1972

Forwarded (4 copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9864-4Lab-72/36225.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Oxford Pencil Industries, Delhi Road, Bahadurgarh.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 90 of 1970

Between

SMT. SARLA DEVI AND THE MANAGEMENT OF M/S OXFORD PENCIL INDUSTRIES,
DELHI ROAD, BAHADURGARH.

Present :

Shri Chander Singh, for the applicant.

Nemo for the management.

AWARD

Shrimati Sarla Devi was workman of M/S Oxford Pencil Industries, Delhi Road, Bahadurgarh. The management terminated her services with effect from 12th December, 1968. This gave rise to an industrial dispute. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this Court,—*vide* order No. ID/RK/104B-69/12219-23, dated the 24th April, 1969. The term of reference is being as under:—

“Whether the termination of services of Shrimati Sarla Devi was justified and in order ? If not ; to what relief is she entitled ?”

On receipt of the order of reference, usual notices were given to the parties. The statement of claim on behalf of workmen was filed but none appeared on behalf of the management in spite of due service. The workman, was, therefore, directed to produce evidence in support of her claim for reinstatement and back wages. Her authorised representative Shri Chander Singh has stated that in spite of his efforts, he has not been able to contact the workman, her whereabouts being not known and as such he has no evidence to produce in the case oral or documentary.

In view of the above, I am led to presume that the workman is not interested in the present reference and a no dispute award is, therefore, given as requested by her authorised representative. There shall be no order as to costs.

Dated 21st August, 1972.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1782, dated 29th August, 1972:

Forwarded (4 copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana.
Rohtak.

No. 9960-4Lab-72/36227.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Paramount Rubber Industries, 58-B, Industrial Area, N. I. T., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 196 of 1971

between

SHRI MUKAND SINGH AND THE MANAGEMENT OF M/S PARAMOUNT RUBBER INDUSTRIES,
58-B INDUSTRIAL AREA, N. I. T., FARIDABAD.

Present.—

Nemo, for the applicant.

Shri R. C. Sharma, for the management.

AWARD

The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this court.—*vide* order No. ID/EB/719-C-71/31780-84, dated 27th October, 1971:—

Whether the termination of services of Shri Mukand Singh is justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, usual notices were issued to the parties. The concerned workman has not come forward to file his statement of claim or to pursue the dispute. According to the written statement filed on behalf of the management and the statement made by its authorised representative Shri R. C. Sharma, Shri Mukand Singh the concerned workman had himself abandoned service and it is not a case of termination of the services by the management. He has further placed on record an application made by the workman to this effect, which is Exhibit M. I.

In view of the above, the presumption is that the concerned workman is not interested in the present reference obviously because there is no industrial dispute existing between the parties. I, therefore, make a no dispute award. There shall be no order as to costs.

Dated 23rd August, 1972.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1783, dated the 29th August, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9900-4Lab-72/36229.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Laxmi Rattan Engineering Works Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Application Nos. 9, 10 of 1972, under section 33-A of the Industrial Disputes Act, 1947

between

SHRI BALDEV RAJ AND SHRI RAM SINGH WORKMEN AND THE MANAGEMENT OF
M/S LAXMI RATTAN ENGINEERING WORKS LTD., FARIDABAD

Present.—

Shri Onkar Parshad, for the workmen.
Shri R.C. Sharma, for the management.

AWARD

This order will dispose of this and the connected complaint No. 10 of 1972 under section 33-A of the Industrial Disputes Act, 1947. The facts involved which are common in both the cases may briefly be stated as under :—

The workmen of M/s Laxmi Rattan Engineering Works Ltd., Faridabad, raised a demand for introduction of gratuity scheme in the establishment which was referred for adjudication to this Tribunal and registered as reference No. 56 of 1967. Sarvshri Ram Singh and Baldev Raj two of the concerned workmen brought these complaints with the allegations that they had been served with charge-sheets on 27th February, 1972 and informed that an enquiry against them had been ordered. They were also placed under suspension. It was further alleged that although they had appeared before the Enquiry Officer but the enquiry was being unnecessarily delayed simply to harass them and hence these complaints.

Notice of the complaints was given to the management. The above allegation were denied and it was contended that there was no contravention of the provisions of section 33 of the Industrial Disputes Act and the present complaints were not maintainable under the law.

The following issues were framed which are common in both the cases :—

- (1) Whether the present complaint is maintainable under section 33-A of the Industrial Disputes Act ?
- (2) If issue No. 1 is proved whether there has been a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 ? If so, what relief is the complainant entitled to ?

The concerned workmen have made their statements. No other evidence has been led on either side. Arguments of the learned representatives of the parties have been heard.

As would be clear from the fact stated above, the main grievance of the workmen is that there has been inordinate delay in holding the domestic enquiry against them. It has been urged on behalf of the management that evidence of the management had already been closed and the enquiry had to be postponed because the workmen had failed to produce their evidence in time. The learned representative of the workmen has stated that the evidence of the workmen was closed by the Enquiry Officer on 6th August, 1972 and no further evidence has to be adduced by them.

Taking into consideration the facts of the case, as discussed above, I do not think there has been any violation of the provisions of section 33 of the Industrial Disputes Act, 1947 on the part of the management and that, being so the present complaints are manifestly not maintainable, as contemplated under section 33-A of the said Act. The concerned workmen do not ask for reinstatement or payment of their wages. According to the management

they are already being paid 50 per cent of their wages during the period of suspension as per Certified Standing Orders of the Company. The complaints, in the result, stand to be dismissed as being not maintainable and I order, accordingly. However, since the parties have already led their evidence in the domestic enquiry, the same should be concluded within 15 days and the management should take whatever action is deemed necessary against the workmen on the findings of the Enquiry Officer without unnecessary delay. The learned representative of the management agrees to it. In the circumstances, there shall be no order as to costs.

Dated 29th August, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 945, dated 29th August, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 29th August, 1972

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9901-4Lab-72/36233.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Bhiwani Central Cooperative Bank, Bhiwani/M/s Hissar District Central Cooperative Bank Ltd. Hissar :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 59 of 1969

Between

SHRI BHARAT SINGH WORKMAN AND THE MANAGEMENT OF M/S BHIWANI CENTRAL COOPERATIVE BANK, BHIWANI M/S HISSAR DISTRICT CENTRAL COOPERATIVE BANK LTD., HISSAR

Present: Shri Sagar Ram Gupta for the workman.
Shri J. C. Anand Advocate with Shri Shamsher Singh for the management.

AWARD

This reference under clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, has arisen out of the following facts.

Shri Bharat Singh concerned workman was in the service of M/s Bhiwani Central Cooperative Bank Ltd., Bhiwani as a Senior Accountant for about 14 years. There were allegations of fraud, falsification of accounts and embezzlement of Bank Funds against him and he was served with a chargesheet dated 8th April, 1968 Ex. M.W. 1/2. He submitted his explanation Ex. M.W. 1/3 on 9th April, 1968 denying the said charges. The management, however, did not consider his explanation to be satisfactory and ordered an enquiry against him. The enquiry was held by Shri D. S. Mann, Deputy Manager of the Bank who found him guilty of the said charges *vide* his report dated 13th June, 1968 Ex. M.W. 1/1. On the basis of the findings of the said report an order of dismissal from service in respect of Shri Bharat Singh was also passed by Shri D. S. Mann on 13th June, 1968 which is Ex. M.W. 1/4.

Feeling aggrieved by the said order Shri Bharat Singh raised a demand for his reinstatement with continuity of his previous service and full back wages *vide* demand notice dated 11th December, 1968 contending that the order of his dismissal from service was wrong, illegal and unjustified. There being no response from the management, conciliation proceedings were initiated before the Conciliation Officer, Bhiwani but without any success and hence this reference by the Government *vide* order No. ID/HR/64-A/28136-40 dated 14th October, 1969, the term of reference being as given under:—

Whether the dismissal of Shri Bharat Singh is justified and if so, to what relief he is entitled?

On receipt of the order of reference from the Government usual notices were given to the parties and they put in their respective written statements. A preliminary objection was raised on behalf of the management that the claim of Shri Bharat Singh, concerned workman was bound to fail because the Hissar District Central Cooperative Bank Ltd. had not been made a party. The following issue was framed.

Whether the claim is bound to fail because the Hissar District Central Cooperative Bank Ltd. has not been made a party?

The Hissar District Central Cooperative Bank Ltd. was made a party to the present reference vide Notification No. ID/HR/64-A/24129, dated 10th August, 1970. Thereafter the management brought on record the enquiry proceedings which were proved by Shri D.S. Mann, Enquiry Officer. After hearing the parties the enquiry was held to be vitiated and therefore set aside *vide* order dated 11th August, 1971 and the parties were required to lead evidence on merits. The management has produced no evidence. Shri Bharat Singh concerned workman has made his own statement that he has remained unemployed ever since his dismissal from the said Bank and this statement has not been challenged on behalf of the management.

Arguments have been addressed on both sides and I have given a careful consideration to the matter in issue.

As already observed the dismissal order in respect of the present workman was made on the basis of serious allegation of misconduct in the discharge of his duties namely fraud, falsification of accounts and embezzlement of Bank funds. These allegations were made by Shri D.S. Mann who himself conducted the enquiry and then passed the impugned order of dismissal. The enquiry having been set aside it was incumbent upon the management to adduce evidence on merits to establish the said charge against the workman. But for reason best known to the management, no evidence whatever has been produced. Not a single witness has come forward to state anything against Shri Bharat Singh nor have the relevant documents been brought on record. The mere fact that the enquiry officer had gone through the relevant record, as alleged on behalf of the management could not be sufficient to establish the charges against the workmen in the present proceedings when the findings of the Enquiry Officer have been set aside as being vitiated on account of the violation of the principles of natural justice. The record does not form part of the enquiry proceedings. The fact, therefore, remains that the management has altogether failed to prove that the dismissal of this workman was justified and in order.

The learned representative of the management has, however, advanced some legal arguments as to the present reference being bad in law. It has been urged that at the time of the reference Shri Bharat Singh was working under the Hissar District Central Cooperative Bank Ltd. while the reference was in the name of the Bhiwani Central Cooperative Bank Ltd; As already pointed out the Hissar District Central Cooperative Bank Ltd. Hissar was also impleaded as a party to the present reference *vide* Government Notification No. ID/HR/64-A/24129-32, dated 10th August, 1970 and as such the above ground raised on behalf of the management no longer holds good. It will not be out of place to mention here that the demand notice dated 11th December, 1968 leading to the present reference had been addressed to both the Bhiwani Central Cooperative Bank Ltd. Bhiwani and the Hissar District Central Cooperative Bank Ltd. Hissar because both the Banks were then in the process of being amalgamated. The Government had the power to amend the order of reference in terms of section 10 of the Industrial Disputes, Act., 1947 by adding a party whose presence was necessary for a proper adjudication of the industrial dispute which, by some mistake or oversight, was not impleaded in the original reference.

It has further been argued that the demand the subject matter of the present reference had not been first made on the management and rejected by it so as to constitute an industrial dispute according to the rules of law laid down by Hon'ble the Supreme Court in the Sindhu Re-settlement Corporation case but no such plea was raised on behalf of the management in the written statement. It is not purely a question of law which could be allowed to be raised even at this stage. If the plea had been raised at the proper time and an issue claimed on the point the workman would have been given an opportunity to adduce evidence to meet the objection. The contention of the management is, therefore, not tenable.

No other point worth consideration has been urged and in view of my above observations the issue the subject matter of the reference is decided in favour of Shri Bharat Singh concerned workman holding that the order of his dismissal was not justified and in order and in the result he is entitled to reinstatement with continuity of his previous service and full back wages. No order as to costs.

O. P. SHARMA
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 29th August, 1972.

No. 944 dated 29th August, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 29th August, 1972,